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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,020	02/21/2006	Kei Takahashi	008312-0315329	9308

909 7590 10/10/2007
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EXAMINER

TORRES, MARCOS L

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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10/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/528,020	Applicant(s) TAKAHASHI ET AL.	
	Examiner Marcos L. Torres	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3-16-05, 5-22-06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) filed on 03-16-05 and 05-22-06 are being considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishibashi US 20020118664A1.

As to claim 9, Ishibashi discloses a method of connecting a network via a wireless relay apparatus by using a communication apparatus (see par. 0003, 0014), comprising: discovering wireless relay apparatuses communicable with the communication apparatus to acquire information of the discovered wireless relay apparatuses (see par. 0014, 0095-0106); setting communication profiles for the discovered wireless relay apparatuses; setting a priority condition for determining priorities of the communication profiles to be used by the communication apparatus; and determining a communication profile to be used by the communication apparatus on the basis of the acquired information of the wireless relay apparatuses, the set communication profiles, and the set priority condition (see fig. 6, 711, item s213-s215; see par. 0090, 0106-0111).

Art Unit: 2617

As to claim 10, Ishibashi discloses a method according wherein in acquiring the information, the communicable wireless relay apparatuses are discovered by receiving beacons from the wireless relay apparatuses, and at least one of a network name, a communication channel of each wireless relay apparatus is acquired as the information of each wireless relay apparatus (see par. 0061-0063, 0099).

As to claim 11, Ishibashi discloses a method according to further comprising storing the acquired information in a storage device (see par. 0099).

Regarding claims 1-3, they are the corresponding device claims of method claims 9-11. Therefore, claims 1-3 are rejected for the same reasons as shown above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 4-8 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi in view of Yeap US 20060069760A1.

As to claim 12, Ishibashi discloses everything as explained above (see claim 10) except for a method in which in setting the priority condition, the priority condition is set on the basis of at least one of the communication speed, the security level, the communication channel, and the radio field strength, and which further comprises determining priorities for the set communication profiles on the basis of the set priority condition. In an analogous art, Yeap disclose a method in which in setting the priority condition, the priority condition is set on the basis of the communication speed, and which further comprises determining priorities for the set communication profiles on the basis of the set priority condition (see par. 0031). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to set the according to communication in order to increase the communication speed and enhance user satisfaction by decreasing waiting time

As to claim 13, Ishibashi discloses a method wherein in determining the communication profile, the communication profile to be used by the communication

apparatus is determined in accordance with the determined priorities (see par. 0059-0060).

As to claim 14, Ishibashi discloses a method further comprising: determining whether to automatically connect the communication apparatus to the wireless relay apparatus in which the determined communication profile is set; and when the communication apparatus is determined to be automatically connected to the wireless relay apparatus, performing a connection process between the communication apparatus and the wireless relay apparatus in which the communication profile is set, by using the determined communication profile (see par. 0066).

As to claim 15, Ishibashi discloses a method further comprising: recognizing a change in communication environment between the wireless relay apparatus and the communication apparatus on the basis of a communication content between the wireless relay apparatus and the communication apparatus which have undergone the connection process; and changing a currently set communication profile to another communication profile in accordance with a content when the change in the communication environment is recognized (see par. 0117).

As to claim 16, Ishibashi discloses a method further comprising changing a currently set communication profile to another communication profile when a fault occurs in the communication apparatus (see par. 0091).

Regarding claims 4-8, they are the corresponding device claims of method claims 12-16. Therefore, claims 4-8 are rejected for the same reasons as shown above.

Conclusion

Any response to this Office Action should be mailed to:

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for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L. Torres whose telephone number is 571-272-7926. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcos L Torres
Examiner
Art Unit 2617


mlt


GEORGE ENG
SUPERVISORY PATENT EXAMINER